

Guidance for Completion of LOWDOC ELIGIBILITY CHECKLIST

Refer to the LowDoc Program Guide and SOP 5010 for further guidance on eligibility. This is particularly recommended when a franchise, EPC, debt refinancing, or conflict of interest or potential for such is involved.

Where additional information is needed to support the response to any of the items in the checklist, attach separate sheets of paper. If a section such as EPC or Debt Refinancing does not apply, skip that section.

SBA may not participate in loans to entities which limit access for reasons other than health or safety.

Size

If an applicant has affiliates, the group of affiliates must be small, based on the primary industry of the group, under LowDoc size standards and the applicant must also be eligible on the basis of its primary industry.

Franchises

Franchise, license, and dealership agreements must be reviewed to determine whether the business is independent or the franchisor, licensor, etc. exercises control to the extent that the right to operate the business independently and enjoy profits or bear the risks of loss commensurate with ownership are restricted. A "No" response on the franchise item does not render the loan ineligible, but processing time may be extended when SBA has to review franchise documents to determine eligibility.

Terms of the Loan

The applicant and its affiliates, if any, may have one or more loans under LowDoc as long the total gross amount of the outstanding loan(s) and the requested loan(s) does not exceed \$150,000. Except for disaster loans which are not included, the loan program under which other loans may have been or may be extended does not matter.

Eligible Passive Concerns

Refer to SOP 50-10 for information on loans to Eligible Passive Concerns.

Use of Proceeds

Refinancing of existing debt must provide a substantial benefit to and meet a need of the small business applicant. Improving the lien position of the lender is not an acceptable reason. SBA does not want to refinance existing debt that is on reasonable terms or debts where the lender is in a position to sustain a loss that would be transferred to SBA. No more than 25% of a LowDoc loan may refinance debt owed to the lender participating in the loan. How much of a loan can be used to refinance debts of other lenders is not restricted. All debts being refinanced must be debts of the business or personal debt incurred on behalf of the business for which the applicant can provide documentation. Existing debt on reasonable terms is not eligible for refinancing. Reasonable terms are to be considered on the basis of whether the business can reasonably service all debt, including the loan request under consideration per the lender's proposed structuring.

SBA does not participate in loans for an individual to purchase an interest in a business in which the individual does not already have an interest. Where a loan is for the funding or refinancing of a change of ownership, an independent third party valuation to evidence whether the purchase price is reasonable is necessary. This also establishes that the transaction is arms-length if close relatives are involved. SBA has no objection if the seller is giving a close relative a beneficial price. Our concern is when the price exceeds the value, especially when close relatives are involved.

Financial assistance provided by SBA must be for business purposes. It is not to benefit individuals, either directly or indirectly, other than through the normal course of conducting business.

Floor plans and other lines of credit are not eligible under LowDoc because of the complexity of the loan analysis and the processing time required.

SBA financial assistance must be for the benefit of the applicant business. A business may not apply for financial assistance for an affiliate or an Associate or any other party.

Change of Ownership

A loan may not be made to a partner(s) or shareholder(s) to purchase the interest of another partner(s) or shareholder(s). The loan must be to the business (partnership or corporation) to acquire the entire interest of a partner(s) or shareholder(s).

Conflict of Interest

SBA must consider conflicts of interest or any appearance of one very carefully. SOP 5010 specifies who decides whether a conflict of interest or the appearance of one renders an application ineligible.

SBA will not participate in a loan which is the result of a real estate forward commitment by the lender.

It is not appropriate for an application to be submitted under more than one of SBA's loan programs at the same time. In addition, if it has been submitted under another SBA loan program, the lender must inform the LDPC of the type of SBA program under which it was submitted and the SBA office to which it was submitted.